IN THE

Supreme Court of the United States

OCTOBER TERM, 1943

No. [redacted]

R. J. THOMAS,

Appellant,

vs.

H. W. COLLINS, Sheriff of Travis County, Texas.

BRIEF ON BEHALF OF THE NATIONAL FEDERATION FOR CONSTITUTIONAL LIBERTIES, AS AMICUS CURIAE

NATIONAL FEDERATION FOR
CONSTITUTIONAL LIBERTIES
By NATHAN WITT,
Counsel.

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This brief is respectfully submitted amicus curiae on behalf of the National Federation for Constitutional Liberties, a non-profit, voluntary, unincorporated association devoted to the protection of the liberties guaranteed by our fundamental law.

Written consent to the filing of this brief has been obtained in accordance with the rules of this Court governing the filing of briefs amicus curiae. The Federation believes that the Texas statute herein involved affecting the rights of labor organizations and those who solicit workers to join a trade union seriously encroaches upon basic constitutional liberties; that the prohibitions and regulations contained in the Texas statute are in conflict with rights guaranteed by the Constitution of the United States.

The statute here under attack limits the full freedom of association which workers should enjoy; it infringes on the basic freedoms of speech, press and assembly; does violence to the concept of equal protection of the laws guaranteed by the Fourteenth Amendment of the Federal Constitution; deprives persons of their liberty and property without due process of law in violation of the Fourteenth Amendment; and deprives some citizens of the United States and of the State of Texas of privileges and immunities secured to other citizens of the United States and of the State of Texas.

Moreover, the Federation believes that in a more profound sense the Texas statute is inimical to the best interests of the Nation for it seriously curtails the rights of men and women in trade unions who are today making a tremendous and vital contribution to the war effort. The record of organized labor in various phases of the war effort essential on the production front, in civilian defense, in consumer activities, in war relief and in many other related field, has been such a splendid one that attempts to curtail the liberties of workers should, it is submitted, be carefully scrutinized by this Court.

It is not intended here to detail at length the origin and development of labor organizations. It may be fairly stated that labor organizations exist because workers desire to protect themselves and further their interests in their relations with employers. Labor organizations are primarily assemblages of working people having similar problems with common objectives. They are assemblages of working men and women who have come together to discuss their views and ideas, educate themselves on the basis of their experience and to agree upon common action intended to solve their mutual problems.

This Court has expressly recognized that the activities of labor organizations involve the exercise of the rights of peaceful assembly, freedom of speech, and freedom of press. *Thornhill* v. *Alabama*, 310 U. S. 88; *Carlson* v.

California, 310 U. S. 106; *Hague* v. *Committee for Industrial Organizations*, 307 U. S. 496; *Schneider* v. *State of New Jersey*, 308 U. S. 147.

It is submitted that a necessary consequence of these fundamental rules of law requires the holding that those workers who solicit members for their trade union are entitled to exercise that element of speech or press without limitation and without prior restraint. The criterion is not the degree of the burden imposed upon those who solicit membership but rather whether the power exists which the State has sought to assert. *Grosjean* v. *American Press Company*, 297 U. S. 233.

If the Texas statute is permitted to stand, it will operate in direct conflict with the National Labor Relations Act, a law of the United States. The National Labor Relations Act was intended by Congress to protect the rights of employees to organize for the purpose of bargaining collectively with their employers. If the provisions of the Texas statute are permitted to stand workers will be unable in certain instances to avail themselves of the rights conferred by the National Labor Relations Act unless they comply with the preconditions imposed by the Texas statute. The National Labor Relations Act contains no such preconditions and a State statute which is in conflict with this Federal law must be declared invalid.

Further, the Federation supports the view that the Texas statute denies to members of labor unions the equal protection of the law guaranteed by the Fourteenth Amendment of the Constitution of the United States. It is well established that a statute which unfairly or unreasonably discriminates for or against persons or groups of persons similarly situated results in an unconstitutional denial of equal protection of the law.

None of the requirements which appear in the State statute herein involved are imposed upon members of employers associations. It is well known that employers associations are involved in labor industry disputes just the same as labor organizations. To impose requirements upon

members of labor organizations, while leaving representatives of employers organizations free from the requirements, constitutes a clear violation of the constitutional guarantee of equal protection of the law. *Hartford Company* v. *Harrison*, 301 U. S. 459; *Bethlehem Motors Corporation* v. *Flynt*, 256 U. S. 421.

The National Federation for Constitutional Liberties believes that failure to declare the Texas statute unconstitutional would be in sharp derogation of the constitutional principles discussed in this brief and in the detailed brief of those who have attacked the validity of the statute on this appeal.

The Federation is deeply concerned over the effect of the decision of the Supreme Court of the State of Texas, if unchanged, upon the morale of the working men and women of this country whose civic rights would be subjected to arbitrary abridgment by the statute. This blow at their rights can neither be welcomed nor supported. It cannot be expected to stimulate labor's contribution to our country's total effort to preserve its democracy from its external enemies.

Serious as the statute is to labor, in its wider implications it threatens abridgment of the allowable area of free speech.

Respectfully submitted,

NATIONAL FEDERATION FOR
CONSTITUTIONAL LIBERTIES
By NATHAN WITT,
Counsel.